

4/4/14

2:18 P.M.

Chapter No. 322
16/SS26/R906
LR / TB/LR

SENATE BILL NO. 2366

Originated in Senate



Secretary

SENATE BILL NO. 2366

AN ACT TO AMEND SECTIONS 77-3-703 AND 77-3-705, MISSISSIPPI CODE OF 1972, TO EXPAND THE APPLICATION OF THE MISSISSIPPI TELEPHONE SOLICITATION ACT TO INCLUDE CELLULAR TELEPHONES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 77-3-703, Mississippi Code of 1972, is amended as follows:

77-3-703. (1) The use of the telephone to make all types of solicitations to consumers is pervasive. This article gives consumers a tool by which to object to telemarketing calls and text messages, as these communications can amount to a nuisance, an invasion of privacy, and can create a health and safety risk for certain consumers who maintain their phone service primarily for emergency medical situations.

(2) Any calls made for political purposes shall be governed by Section 23-15-875.

SECTION 2. Section 77-3-705, Mississippi Code of 1972, is amended as follows:

77-3-705. For the purposes of this article, the following words and terms shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Consumer" means * * * an actual or prospective purchaser, lessee or recipient of consumer goods or services.

(b) "Caller identification service" means a type of telephone service which permits a telephone subscriber to view the telephone number and name of the person or entity making an incoming telephone call or text message.

(c) "Telephone solicitor" means any person, firm, entity, organization, partnership, association, corporation, charitable entity, or a subsidiary or affiliate thereof, who engages in any type of telephone solicitation on his or her own behalf or through representatives, independent contractors, salespersons, agents, automated dialing systems, text messaging systems, or any other machines or other individuals or systems.

(d) "Telephone solicitation" means any voice communication over the telephone line of a consumer for the purpose of:

(i) Encouraging the purchase or rental of, or investment in, property; or

(ii) Soliciting a sale of any consumer goods or services, or an extension of credit for consumer goods or services.

(e) "Commission" means the Mississippi Public Service Commission.

(f) "Doing business in this state" refers to businesses which conduct telephone solicitations from any location to consumers located in this state.

(g) "Consumer goods or services" means any real property or any tangible or intangible personal property which is normally used for personal, family or household purposes, including, without limitation, any property intended to be attached to, or installed in, any real property, and any services related to the property.

(h) "Established business relationship" means a prior or existing relationship formed by a voluntary two-way communication between a person or entity and a consumer, with or without an exchange of consideration, on the basis of an inquiry, application, purchase or transaction by the consumer, which relationship is currently existing or was terminated within six (6) months of the telephone solicitation; however, the act of purchasing consumer goods or services under an extension of credit does not create an existing business relationship between the consumer and the entity extending credit to the consumer for such purchase. The term does not include the situation wherein the consumer has merely been subject to a telephone solicitation by or at the behest of the telephone solicitor within the six (6) months immediately preceding the contemplated telephone solicitation.

(i) "Charitable organization" means any person or entity holding itself out to be established for any benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental or conservation, civic or other eleemosynary purpose or for the benefit of law enforcement personnel, firefighters, or any other persons who protect the public safety, or for any other purpose where a charitable appeal is the basis of the solicitation.

SECTION 3. This act shall take effect and be in force from and after July 1, 2016.

PASSED BY THE SENATE
February 29, 2016



PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 24, 2016



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

*April 4, 2016
2:15 pm*